

**Calendar No. 654**

108TH CONGRESS  
2D SESSION

**S. 1996**

**[Report No. 108–311]**

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation  
Project certain benefits of the Pick-Sloan Missouri River basin program.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2003

Mr. DASCHLE (for himself, Mr. JOHNSON, and Mr. INOUE) introduced the  
following bill; which was read twice and referred to the Committee on In-  
dian Affairs

JULY 20, 2004

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To enhance and provide to the Oglala Sioux Tribe and An-  
gostura Irrigation Project certain benefits of the Pick-  
Sloan Missouri River basin program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Oglala Sioux Tribe  
3 Angostura Irrigation Project Rehabilitation and Develop-  
4 ment Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) Congress approved the Pick-Sloan Missouri  
8 River basin program by passing the Act of Decem-  
9 ber 22, 1944 (commonly known as the “Flood Con-  
10 trol Act of 1944”) (33 U.S.C. 701–1 et seq.)—

11 (A) to promote the economic development  
12 of the United States;

13 (B) to provide for irrigation in regions  
14 north of Sioux City, Iowa;

15 (C) to protect urban and rural areas from  
16 devastating floods of the Missouri River; and

17 (D) for other purposes;

18 (2) the Angostura Unit—

19 (A) is a component of the Pick-Sloan pro-  
20 gram; and

21 (B) provides for—

22 (i) irrigation of 12,218 acres of pro-  
23 ductive farm land in the State; and

24 (ii) substantial recreation and fish  
25 and wildlife benefits;

1           (3) the Commissioner of Reclamation has deter-  
2       mined that—

3           (A) the national economic development  
4       benefits from irrigation at the Angostura Unit  
5       total approximately \$3,410,000 annually; and

6           (B) the national economic development  
7       benefits of recreation at Angostura Reservoir  
8       total approximately \$7,100,000 annually;

9           (4) the Angostura Unit impounds the Cheyenne  
10      River 20 miles upstream of the Pine Ridge Indian  
11      Reservation in the State;

12          (5)(A) the Reservation experiences extremely  
13      high rates of unemployment and poverty; and

14          (B) there is a need for economic development  
15      on the Reservation;

16          (6) the national economic development benefits  
17      of the Angostura Unit do not extend to the Reserva-  
18      tion;

19          (7) the Angostura Unit may be associated with  
20      negative affects on water quality and riparian vege-  
21      tation in the Cheyenne River on the Reservation;

22          (8) rehabilitation of the irrigation facilities at  
23      the Angostura Unit would—

24           (A) enhance the national economic develop-  
25      ment benefits of the Angostura Unit; and

1           ~~(B)~~ result in improved water efficiency and  
 2           environmental restoration benefits on the Res-  
 3           ervation; and

4           ~~(9)~~ the establishment of a trust fund for the  
 5           Oglala Sioux Tribe would—

6           ~~(A)~~ produce economic development benefits  
 7           for the Reservation comparable to the benefits  
 8           produced at the Angostura Unit; and

9           ~~(B)~~ provide resources that are necessary  
 10          for restoration of the Cheyenne River corridor  
 11          on the Reservation.

12 **SEC. 3. DEFINITIONS.**

13       In this Act:

14           ~~(1)~~ ANGOSTURA UNIT.—The term “Angostura  
 15           Unit” means the irrigation unit of the Angostura ir-  
 16           rigation project developed under the Act of August  
 17           11, 1939 (16 U.S.C. 590y et seq.).

18           ~~(2)~~ FUND.—The term “Fund” means the Og-  
 19           lala Sioux Tribal Development Trust Fund estab-  
 20           lished by section 201(a).

21           ~~(3)~~ PICK-SLOAN PROGRAM.—The term “Pick-  
 22           Sloan program” means the Pick-Sloan Missouri  
 23           River basin program approved under the Act of De-  
 24           cember 22, 1944 (commonly known as the “Flood  
 25           Control Act of 1944”) (33 U.S.C. 701–1 et seq.).

1           (4) **PLAN.**—The term “plan” means the devel-  
 2           opment plan developed by the Tribe under section  
 3           201(f).

4           (5) **RESERVATION.**—The term “Reservation”  
 5           means the Pine Ridge Indian Reservation in the  
 6           State.

7           (6) **SECRETARY.**—The term “Secretary” means  
 8           the Secretary of the Interior.

9           (7) **STATE.**—The term “State” means the State  
 10          of South Dakota.

11          (8) **TRIBAL COUNCIL.**—The term “Tribal Coun-  
 12          cil” means the governing body of the Tribe.

13          (9) **TRIBE.**—The term “Tribe” means the Og-  
 14          lala Sioux Tribe of South Dakota.

## 15           **TITLE I—REHABILITATION**

### 16   **SEC. 101. REHABILITATION OF FACILITIES AT ANGOSTURA** 17           **UNIT.**

18          The Secretary may carry out the rehabilitation and  
 19          improvement of the facilities at the Angostura Project de-  
 20          scribed in the report entitled “Angostura Unit Contract  
 21          Negotiation and Water Management Final Environmental  
 22          Impact Statement”, dated August 2002.

### 23   **SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN** 24           **RESERVATION.**

25          The Secretary shall provide for—

1           (1) to the maximum extent practicable, the de-  
 2       livery of water saved through the rehabilitation and  
 3       improvement of the facilities of the Angostura Unit  
 4       to the Pine Ridge Indian Reservation; and

5           (2) the use of that water for purposes of envi-  
 6       ronmental restoration on the Pine Ridge Indian Res-  
 7       ervation.

8   **SEC. 103. EFFECT ON OTHER LAW.**

9       Nothing in this title affects—

10           (1) any reserved water rights or other rights of  
 11       the Tribe;

12           (2) any service or program to which, in accord-  
 13       ance with Federal law, the Tribe, or an individual  
 14       member of the Tribe, is entitled; or

15           (3) any water rights in existence on the date of  
 16       enactment of this Act held by any person or entity.

17   **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

18       There is authorized to be appropriated such sums as  
 19       are necessary to carry out this title, to remain available  
 20       until expended.

21           **TITLE II—DEVELOPMENT**

22   **SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST**  
 23           **FUND.**

24       (a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST  
 25       FUND.—There is established in the Treasury of the

1 United States a fund to be known as the “Oglala Sioux  
 2 Tribal Development Trust Fund”, consisting of any  
 3 amounts deposited in the Fund under this title.

4 (b) FUNDING.—On the first day of the 11th fiscal  
 5 year that begins after the date of enactment of this Act,  
 6 the Secretary of the Treasury shall, from the General  
 7 Fund of the Treasury, deposit in the Fund—

8 (1) such sums as the Secretary of the Treasury,  
 9 in consultation with the Secretary, the Secretary of  
 10 Health and Human Services, and the Tribal Council,  
 11 are necessary to carry out development under this  
 12 title; and

13 (2) the amount that equals the amount of inter-  
 14 est that would have accrued on the amount de-  
 15 scribed in paragraph (1) if that amount had been in-  
 16 vested in interest-bearing obligations of the United  
 17 States, or in obligations guaranteed as to both prin-  
 18 cipal and interest by the United States, on the first  
 19 day of the first fiscal year that begins after the date  
 20 of enactment of this Act and compounded annually  
 21 thereafter.

22 (c) INVESTMENT OF TRUST FUND.—

23 (1) IN GENERAL.—The Secretary of the Treas-  
 24 ury shall invest such portion of the Fund as is not,

1 in the judgment of the Secretary of the Treasury,  
 2 required to meet current withdrawals.

3 ~~(2) ACQUISITION OF OBLIGATIONS.~~—Such in-  
 4 vestments may be made only in interest-bearing obli-  
 5 gations of the United States or in obligations guar-  
 6 anteed as to both principal and interest by the  
 7 United States.

8 ~~(3) INTEREST.~~—The Secretary of the Treasury  
 9 shall deposit interest resulting from such invest-  
 10 ments into the Fund.

11 ~~(d) PAYMENT OF INTEREST TO TRIBE.~~—

12 ~~(1) WITHDRAWAL OF INTEREST.~~—Beginning on  
 13 the first day of the 11th fiscal year after the date  
 14 of enactment of this Act and, on the first day of  
 15 each fiscal year thereafter, the Secretary of the  
 16 Treasury shall transfer the aggregate amount of in-  
 17 terest deposited into the Fund for the fiscal year to  
 18 the Secretary for use in accordance with paragraph  
 19 ~~(3).~~

20 ~~(2) AVAILABILITY.~~—Each amount transferred  
 21 under paragraph ~~(1)~~ shall be available without fiscal  
 22 year limitation.

23 ~~(3) PAYMENTS TO TRIBE.~~—

24 ~~(A) IN GENERAL.~~—The Secretary shall use  
 25 the amounts transferred under paragraph ~~(1)~~



1           only for the purpose of making payments to the  
 2           Tribe, as such payments are requested by the  
 3           Tribe pursuant to tribal resolution.

4           ~~(B) LIMITATION.—~~Payments may be made  
 5           by the Secretary of the Interior under subpara-  
 6           graph ~~(A)~~ only after the Tribe has adopted a  
 7           plan under subsection ~~(f)~~.

8           ~~(C) USE OF PAYMENTS BY TRIBE.—~~The  
 9           Tribe shall use the payments made under sub-  
 10          paragraph ~~(B)~~ only for carrying out projects  
 11          and programs under the plan prepared under  
 12          subsection ~~(f)~~.

13          ~~(e) LIMITATION ON TRANSFERS AND WITH-~~  
 14          ~~DRAWALS.—~~Except as provided in subsections ~~(e)~~ and  
 15          ~~(d)(1)~~, the Secretary of the Treasury shall not transfer  
 16          or withdraw any amount deposited under subsection ~~(b)~~.

17          ~~(f) DEVELOPMENT PLAN.—~~

18           ~~(1) IN GENERAL.—~~Not later than 18 months  
 19          after the date of enactment of this Act, the gov-  
 20          erning body of the Tribe shall prepare a plan for the  
 21          use of the payments to the Tribe under subsection  
 22          ~~(d)~~.

23           ~~(2) CONTENTS.—~~The plan shall provide for the  
 24          manner in which the Tribe shall expend payments to  
 25          the Tribe under subsection ~~(d)~~ to promote—

1           ~~(A) economic development;~~

2           ~~(B) infrastructure development;~~

3           ~~(C) the educational, health, recreational,~~  
 4           ~~and social welfare objectives of the Tribe and~~  
 5           ~~members of the Tribe; or~~

6           ~~(D) any combination of the activities de-~~  
 7           ~~scribed in subparagraphs (A) through (C).~~

8           ~~(3) PLAN REVIEW AND REVISION.—~~

9           ~~(A) IN GENERAL.—The Tribal Council~~  
 10           ~~shall make available for review and comment by~~  
 11           ~~the members of the Tribe a copy of the plan be-~~  
 12           ~~fore the plan becomes final, in accordance with~~  
 13           ~~procedures established by the Tribal Council.~~

14           ~~(B) UPDATING OF PLAN.—~~

15           ~~(i) IN GENERAL.—The Tribal Council~~  
 16           ~~may, on an annual basis, revise the plan to~~  
 17           ~~update the plan.~~

18           ~~(ii) REVIEW AND COMMENT.—In re-~~  
 19           ~~vising the plan, the Tribal Council shall~~  
 20           ~~provide the members of the Tribe oppor-~~  
 21           ~~tunity to review and comment on any pro-~~  
 22           ~~posed revision to the plan.~~

23           ~~(C) CONSULTATION.—In preparing the~~  
 24           ~~plan and any revisions to update the plan, the~~  
 25           ~~Tribal Council shall consult with the Secretary~~

1 and the Secretary of Health and Human Serv-  
2 ices:

3 ~~(4) AUDIT.—~~

4 ~~(A) IN GENERAL.—~~The activities of the  
5 Tribe in carrying out the plan shall be audited  
6 as part of the annual single-agency audit that  
7 the Tribe is required to prepare pursuant to the  
8 Office of Management and Budget circular  
9 numbered A-133.

10 ~~(B) DETERMINATION BY AUDITORS.—~~The  
11 auditors that conduct the audit under subpara-  
12 graph ~~(A)~~ shall—

13 (i) determine whether funds received  
14 by the Tribe under this section for the pe-  
15 riod covered by the audit were expended to  
16 carry out the plan in a manner consistent  
17 with this section; and

18 (ii) include in the written findings of  
19 the audit the determination made under  
20 clause (i).

21 ~~(C) INCLUSION OF FINDINGS WITH PUBLI-~~  
22 ~~CATION OF PROCEEDINGS OF TRIBAL COUN-~~  
23 ~~CIL.—~~A copy of the written findings of the  
24 audit described in subparagraph ~~(A)~~ shall be in-  
25 serted in the published minutes of the Tribal

1 Council proceedings for the session at which the  
2 audit is presented to the Tribal Council.

3 ~~(g) PROHIBITION OF PER CAPITA PAYMENTS.—No~~  
4 ~~portion of any payment made under this title may be dis-~~  
5 ~~tributed to any member of the Tribe on a per capita basis.~~

6 **SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
7 **AND SERVICES.**

8 No payment made to the Tribe under this title shall  
9 result in the reduction or denial of any service or program  
10 with respect to which, under Federal law—

11 (1) the Tribe is otherwise entitled because of  
12 the status of the Tribe as a federally recognized In-  
13 dian tribe; or

14 (2) any individual who is a member of the Tribe  
15 is entitled because of the status of the individual as  
16 a member of the Tribe.

17 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums  
19 as are necessary to pay the administrative expenses of the  
20 Fund.

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Oglala Sioux Tribe An-*  
23 *gostura Irrigation Project Modernization and Development*  
24 *Act”.*

1 **SEC. 2. FINDINGS.**

2 *Congress finds that—*

3 *(1) Congress approved the Pick-Sloan Missouri*  
 4 *River basin program by passing the Act of December*  
 5 *22, 1944 (commonly known as the “Flood Control Act*  
 6 *of 1944”) (33 U.S.C. 701–1 et seq.)—*

7 *(A) to promote the economic development of*  
 8 *the United States;*

9 *(B) to provide for irrigation in regions*  
 10 *north of Sioux City, Iowa;*

11 *(C) to protect urban and rural areas from*  
 12 *devastating floods of the Missouri River; and*

13 *(D) for other purposes;*

14 *(2) the Angostura Unit—*

15 *(A) is a component of the Pick-Sloan pro-*  
 16 *gram; and*

17 *(B) provides for—*

18 *(i) irrigation of 12,218 acres of pro-*  
 19 *ductive farm land in South Dakota; and*

20 *(ii) substantial recreation and fish and*  
 21 *wildlife benefits;*

22 *(3) the Commissioner of Reclamation has deter-*  
 23 *mined that—*

24 *(A) the national economic development ben-*  
 25 *efits from irrigation at the Angostura Unit total*  
 26 *approximately \$3,410,000 annually; and*

1                   (B) the national economic development ben-  
 2                   efits of recreation at Angostura Reservoir total  
 3                   approximately \$7,100,000 annually;

4                   (4) the Angostura Unit impounds the Cheyenne  
 5                   River 20 miles upstream of the Pine Ridge Indian  
 6                   Reservation in South Dakota;

7                   (5)(A) the Reservation experiences extremely  
 8                   high rates of unemployment and poverty; and

9                   (B) there is a need for economic development on  
 10                  the Reservation;

11                  (6) the national economic development benefits of  
 12                  the Angostura Unit do not extend to the Reservation;

13                  (7) the Angostura Unit may be associated with  
 14                  negative affects on water quality and riparian vegeta-  
 15                  tion in the Cheyenne River on the Reservation;

16                  (8) modernization of the irrigation facilities at  
 17                  the Angostura Unit would—

18                         (A) enhance the national economic develop-  
 19                         ment benefits of the Angostura Unit; and

20                         (B) result in improved water efficiency and  
 21                         environmental restoration benefits on the Res-  
 22                         ervation; and

23                  (9) the establishment of a trust fund for the Og-  
 24                  lala Sioux Tribe would—

1           (A) produce economic development benefits  
 2           for the Reservation comparable to the benefits  
 3           produced at the Angostura Unit; and

4           (B) provide resources that are necessary for  
 5           restoration of the Cheyenne River corridor on the  
 6           Reservation.

7 **SEC. 3. DEFINITIONS.**

8       *In this Act:*

9           (1) *ANGOSTURA UNIT.*—The term “Angostura  
 10          Unit” means the irrigation unit of the Angostura ir-  
 11          rigation project developed under the Act of August 11,  
 12          1939 (16 U.S.C. 590y et seq.).

13          (2) *FUND.*—The term “Fund” means the Oglala  
 14          Sioux Tribal Development Trust Fund established by  
 15          section 201(a).

16          (3) *PICK-SLOAN PROGRAM.*—The term “Pick-  
 17          Sloan program” means the Pick-Sloan Missouri  
 18          River basin program approved under the Act of De-  
 19          cember 22, 1944 (commonly known as the “Flood  
 20          Control Act of 1944”) (33 U.S.C. 701–1 et seq.).

21          (4) *PLAN.*—The term “plan” means the develop-  
 22          ment plan developed by the Tribe under section  
 23          201(f).

1           (5) *RESERVATION.*—*The term “Reservation”*  
 2           *means the Pine Ridge Indian Reservation in the*  
 3           *State.*

4           (6) *SECRETARY.*—*The term “Secretary” means*  
 5           *the Secretary of the Interior.*

6           (7) *TRIBE.*—*The term “Tribe” means the Oglala*  
 7           *Sioux Tribe of South Dakota.*

8           (8) *TRIBAL COUNCIL.*—*The term “Tribal Coun-*  
 9           *cil” means the governing body of the Tribe.*

## 10           ***TITLE I—MODERNIZATION***

### 11   ***SEC. 101. MODERNIZATION OF FACILITIES AT ANGOSTURA*** 12           ***UNIT.***

13           (a) *IN GENERAL.*—*The Secretary shall carry out the*  
 14           *modernization and improvement of the facilities at the An-*  
 15           *gostura Unit as described in the Improved Efficiencies Al-*  
 16           *ternative included in the report entitled “Final Environ-*  
 17           *mental Impact Statement, Angostura Unit Contract Nego-*  
 18           *tiation and Water Management (August 2002)”.*

19           (b) *NONREIMBURSABILITY.*—*The cost of the mod-*  
 20           *ernization and improvement of the facilities at the Angos-*  
 21           *tura Unit shall be carried out on a nonreimbursable basis.*

### 22   ***SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RES-*** 23           ***ERVATION.***

24           *The Secretary shall provide for the delivery of the*  
 25           *water saved through the modernization and improvement*



1 *of the facilities of the Angostura Unit to be used for fish*  
 2 *and wildlife purposes and environmental restoration on the*  
 3 *Reservation.*

4 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

5 *There is authorized to be appropriated to carry out*  
 6 *section 101 \$4,660,000, to remain available until expended.*

7 **TITLE II—DEVELOPMENT**

8 **SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST**  
 9 **FUND.**

10 *(a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST*  
 11 *FUND.—There is established in the Treasury of the United*  
 12 *States a fund to be known as the “Oglala Sioux Tribal De-*  
 13 *velopment Trust Fund”, consisting of any amounts depos-*  
 14 *ited in the Fund under this title.*

15 *(b) FUNDING.—On the first day of the 11th fiscal year*  
 16 *that begins after the date of enactment of this Act, the Sec-*  
 17 *retary of the Treasury shall, from the General Fund of the*  
 18 *Treasury, deposit in the Fund—*

19 *(1) \$92,500,000; and*

20 *(2) the amount that equals the amount of inter-*  
 21 *est that would have accrued on the amount described*  
 22 *in paragraph (1) if that amount had been invested in*  
 23 *interest-bearing obligations of the United States on*  
 24 *the first day of the first fiscal year that begins after*

1     *the date of enactment of this Act and compounded*  
2     *annually thereafter.*

3     (c) *INVESTMENT OF TRUST FUND.*—

4         (1) *IN GENERAL.*—*The Secretary of the Treasury*  
5     *shall invest such portion of the Fund as is not, in the*  
6     *judgment of the Secretary of the Treasury, required to*  
7     *meet current withdrawals.*

8         (2) *ELIGIBLE OBLIGATIONS.*—*Notwithstanding*  
9     *any other provision of law, the Secretary of the Treas-*  
10    *ury shall invest the amounts deposited under sub-*  
11    *section (b) and the interest earned on those amounts*  
12    *only in interest-bearing obligations of the United*  
13    *States issued directly to the Fund.*

14         (3) *INTEREST.*—*The Secretary of the Treasury*  
15    *shall deposit interest resulting from such investments*  
16    *into the Fund.*

17    (d) *PAYMENT OF INTEREST TO TRIBE.*—

18         (1) *WITHDRAWAL OF INTEREST.*—*Beginning on*  
19    *the first day of the 11th fiscal year after the date of*  
20    *enactment of this Act and, on the first day of each*  
21    *fiscal year thereafter, the Secretary of the Treasury*  
22    *shall transfer the aggregate amount of interest depos-*  
23    *ited into the Fund for the fiscal year to the Secretary*  
24    *for use in accordance with paragraph (3).*

1           (2) *AVAILABILITY.*—*Each amount transferred*  
 2           *under paragraph (1) shall be available without fiscal*  
 3           *year limitation.*

4           (3) *PAYMENTS TO TRIBE.*—

5                 (A) *IN GENERAL.*—*The Secretary shall use*  
 6                 *the amounts transferred under paragraph (1)*  
 7                 *only for the purpose of making payments to the*  
 8                 *Tribe, as such payments are requested by the*  
 9                 *Tribe pursuant to tribal resolution.*

10                (B) *LIMITATION.*—*Payments may be made*  
 11                *by the Secretary of the Interior under subpara-*  
 12                *graph (A) only after the Tribe has adopted a*  
 13                *plan under subsection (f).*

14                (C) *USE OF PAYMENTS BY TRIBE.*—*The*  
 15                *Tribe shall use the payments made under sub-*  
 16                *paragraph (B) only for carrying out projects*  
 17                *and programs under the plan prepared under*  
 18                *subsection (f).*

19           (e) *LIMITATION ON TRANSFERS AND WITHDRAWALS.*—  
 20           *Except as provided in subsections (c) and (d)(1), the Sec-*  
 21           *retary of the Treasury shall not transfer or withdraw any*  
 22           *amount deposited under subsection (b).*

23           (f) *DEVELOPMENT PLAN.*—

24                 (1) *IN GENERAL.*—*Not later than 18 months*  
 25                 *after the date of enactment of this Act, the governing*

body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

(2) *CONTENTS.*—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) *PLAN REVIEW AND REVISION.*—

(A) *IN GENERAL.*—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) *UPDATING OF PLAN.*—

(i) *IN GENERAL.*—The Tribal Council may, on an annual basis, revise the plan to update the plan.

(ii) *REVIEW AND COMMENT.*—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity

1           to review and comment on any proposed re-  
2           vision to the plan.

3           (C) CONSULTATION.—In preparing the plan  
4           and any revisions to update the plan, the Tribal  
5           Council shall consult with the Secretary and the  
6           Secretary of Health and Human Services.

7           (4) AUDIT.—

8           (A) IN GENERAL.—The activities of the  
9           Tribe in carrying out the plan shall be audited  
10          as part of the annual single-agency audit that  
11          the Tribe is required to prepare pursuant to the  
12          Office of Management and Budget circular num-  
13          bered A-133.

14          (B) DETERMINATION BY AUDITORS.—The  
15          auditors that conduct the audit under subpara-  
16          graph (A) shall—

17               (i) determine whether funds received by  
18               the Tribe under this section for the period  
19               covered by the audit were expended to carry  
20               out the plan in a manner consistent with  
21               this section; and

22               (ii) include in the written findings of  
23               the audit the determination made under  
24               clause (i).

1                   (C) *INCLUSION OF FINDINGS WITH PUBLICA-*  
 2                   *TION OF PROCEEDINGS OF TRIBAL COUNCIL.—A*  
 3                   *copy of the written findings of the audit de-*  
 4                   *scribed in subparagraph (A) shall be inserted in*  
 5                   *the published minutes of the Tribal Council pro-*  
 6                   *ceedings for the session at which the audit is pre-*  
 7                   *sent to the Tribal Council.*

8           (g) *PROHIBITION OF PER CAPITA PAYMENTS.—No*  
 9           *portion of any payment made under this title may be dis-*  
 10           *tributed to any member of the Tribe on a per capita basis.*

11   **SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
 12                   **AND SERVICES.**

13           *No payment made to the Tribe under this title shall*  
 14           *result in the reduction or denial of any service or program*  
 15           *with respect to which, under Federal law—*

16                   (1) *the Tribe is otherwise entitled because of the*  
 17                   *status of the Tribe as a federally recognized Indian*  
 18                   *tribe; or*

19                   (2) *any individual who is a member of the Tribe*  
 20                   *is entitled because of the status of the individual as*  
 21                   *a member of the Tribe.*

22   **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

23           *There are authorized to be appropriated such sums as*  
 24           *are necessary to pay the administrative expenses of the*  
 25           *Fund.*

1 **SEC. 204. WATER RIGHTS.**

2 *Nothing in this Act—*

3 *(1)(A) affects any rights, benefits, privileges or*  
4 *claims (including water rights or claims to water*  
5 *rights) of the Tribe, whether located within or without*  
6 *the external boundaries of the Reservation, based on*  
7 *treaty, Executive order, agreement, Act of Congress,*  
8 *aboriginal title, the Winters doctrine (Winters v.*  
9 *United States, 207 U.S. 564 (1908)), or otherwise; or*

10 *(B) validates or invalidates any assertion of the*  
11 *existence, nonexistence or extinguishment of any*  
12 *water rights, or claims to water rights, held by the*  
13 *Tribe or any other Indian tribe or individual Indian*  
14 *under Federal or State law; or*

15 *(2) affects any other water rights in existence on*  
16 *the date of enactment of this Act held by any person*  
17 *or entity.*

Calendar No. 654

108TH CONGRESS  
2D Session

**S. 1996**

[Report No. 108-311]

**A BILL**

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

JULY 20, 2004

Reported with an amendment